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STATUTORY INSTRUMENTS

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**1997 No. 174 (S.10)**

**NATIONAL HEALTH SERVICE SCOTLAND**

**The Scottish Dental Practice Board Regulations 1997**

*Made* - - - - 27th January 1997  
*Laid before Parliament* 6th February 1997  
*Coming into force* - - 27th February 1997

The Secretary of State, in exercise of the powers conferred by sections 4(1), (1A) and (2), 25(1), 105(7) and 108(1) of the National Health Service (Scotland) Act 1978<sup>(1)</sup> and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Scottish Dental Practice Board Regulations 1997 and shall come into force on 27th February 1997.

**Interpretation**

2. In these Regulations—

“the Act” means the National Health Service (Scotland) Act 1978<sup>(2)</sup>;

“associateship agreement” has the same meaning as in the National Health Service (General Dental Services) (Scotland) Regulations 1996<sup>(3)</sup>;

“the Board” means the Scottish Dental Practice Board;

“Common Services Agency” means the Agency constituted under section 10 of the Act;

“dentist” means a registered dental practitioner;

“dental officer” has the same meaning as in the National Health Service (General Dental Services) (Scotland) Regulations 1996;

“estimate” has the same meaning as in the National Health Service (General Dental Services) (Scotland) Regulations 1996;

“member” means a member of the Board including its chairman.

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(1) 1978 c. 29; Section 4(1) was amended by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 25(2); section 4(1A) was inserted by the 1988 Act, section 12(3); section 105(7), which was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24, contains provisions relevant to the making of Regulations; section 108(1) contains a definition of “regulations” relevant to the exercise of the statutory powers under which these Regulations are made.

(2) 1978 c. 29.

(3) 1996/177.

### **Continuation of the Board**

3.—(1) The Board shall continue to be constituted for the purpose of carrying out such duties as may be prescribed under section 4(1) of the Act and such other functions as may be conferred on it under section 4(1A) and (1C) of the Act<sup>(4)</sup>.

(2) The Board shall continue to be a body corporate.

(3) The Board shall not acquire land except with the consent of the Secretary of State.

### **Constitution of the Board**

4. The Board shall consist of—

(a) a chairman who shall be a dentist; and

(b) seven other members, of whom—

(i) four shall be dentists (hereinafter called “dental members”); and

(ii) three shall be persons who are not dentists.

### **Appointment of members**

5. Members shall be appointed by the Secretary of State, which in the case of dental members shall be after consultation with such organisations as he may recognise as representative of dentists.

### **Deputy Chairman**

6. If for any period the chairman is unable to act, the Secretary of State, after consultation with such organisations as he may recognise as representative of dentists, may also appoint another dentist as deputy chairman, who shall act in place of the chairman and shall be deemed to be a member of the Board for so long as he holds office, and any reference to the chairman in regulations 11, 12 and 13 shall include a reference to any deputy chairman as aforesaid.

### **Tenure of office of members**

7.—(1) Subject to regulations 8 and 9 a member’s term of office shall be such period, not exceeding 3 years beginning on the date of his appointment, as the Secretary of State shall specify on appointing him.

(2) A member appointed to fill a vacancy occurring by reason that a member has died or has ceased to hold office in accordance with the next succeeding regulation shall hold office for the remainder of the term of office of the person in whose place he is appointed.

### **Termination of tenure of office**

8.—(1) A member may resign his office at any time after appointment by giving one month’s notice in writing to that effect to the Secretary of State.

(2) The Secretary of State may terminate the tenure of office of a member—

(a) if he is convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months without the option of a fine;

(b) if—

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(4) Subsections (1A) and (1C) of section 4 of the National Health Service (Scotland) Act 1978 were inserted by the Health and Medicines Act 1988 (c. 49), section 12(3).

- (i) at the time of his appointment as a member he was employed by, or held a paid appointment or office with, a Health Board or the Common Services Agency; and
  - (ii) he is dismissed, otherwise than by reason of redundancy, from that employment or that paid appointment or office is terminated;
  - (c) if the Secretary of State is of the opinion that it is not in the interest of the health service that the member should continue to hold office; or
  - (d) if he is a person whose estates have been sequestrated or who has been adjudged bankrupt or has made a composition or arrangement with his creditors.
- (3) The Secretary of State shall terminate the tenure of office of a member—
- (a) if he has failed to attend a meeting of the Board in any period of twelve consecutive months, unless the Secretary of State is satisfied both that his absence was due to reasonable cause and that he will be able to attend meetings of the Board within a reasonable time; or
  - (b) in the case of a dental member—
    - (i) if his name has been erased from the register kept under section 14 of the Dentists Act 1984<sup>(5)</sup> or his registration in that register has been suspended;
    - (ii) if his name has been removed, by a direction under section 29 of the Act<sup>(6)</sup> from any list prepared under section 25(2) of the Act<sup>(7)</sup>; or
    - (iii) if he becomes disqualified for inclusion in, or his name has been removed from, any list prepared under section 25(2) of the Act, by virtue of section 31(b) of the Act.

### **Re-appointment**

9. A member shall, on the expiry of his term of office, be eligible for re-appointment.

### **Functions**

10.—(1) The Common Services Agency shall provide the services of office accommodation and other facilities to enable the Board to carry out its functions.

(2) The Board shall, for the purpose of carrying out the duties imposed on it by these Regulations, consider all claims for remuneration submitted for approval for payment and all estimates and may give or withhold approval as it thinks fit; and for the purpose of determining whether or not to give approval may ask a patient to submit himself for examination by a dental officer and may require the dentist to produce such records including radiographs and further particulars as it thinks fit.

### **Chairman**

11.—(1) At every meeting of the Board the chairman, if present, shall preside.

(2) If the chairman is absent from any meeting, the members present at the meeting shall elect from their own number a dental member to act as chairman for that meeting.

### **Meetings and proceedings**

12.—(1) The meetings and proceedings of the Board shall be conducted in accordance with Standing Orders made under paragraph (2).

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(5) 1984 c. 24.

(6) Section 29 was amended by the Health and Social Security Act 1984 (c. 48), section 24, Schedule 8 Part I and by the National Health Service (Amendment) Act 1995 (c. 31) sections 7 and 9 and the Schedule.

(7) Section 25(2) was extended by the Health and Medicines Act 1988 (c. 49), section 17(1).

(2) The Board shall make and may vary or revoke Standing Orders for the regulation of the proceedings and business of the Board.

(3) Standing Orders shall—

- (a) provide for such number of members of the Board, not being less than three, as shall form a quorum; and
- (b) provide that if a member has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the Board at which the matter is under consideration—
  - (i) he shall as soon as practicable disclose his interest to the chairman; and
  - (ii) he shall not take part in the consideration or discussion of that matter, or vote on any question with respect to it.

(4) Subject to paragraph (b), a member shall be treated for the purposes of paragraph (3) as having an indirect pecuniary interest in a matter if he is connected with a person—

- (a) who has a direct pecuniary interest in that matter; or
- (b) where the matter is a contract, with whom the contract is or is proposed to be made.

(5) For the purposes of paragraph (4), a member is connected with another person if—

- (a) he is in the employment of, is a partner of, or is a party to an associateship agreement with that person; and
- (b) where that person is a company, or the member or nominee of his is a director of that company.

(6) For the purposes of paragraphs (3) and (4) dental member shall not be treated as having a pecuniary interest in any matter relating to the remuneration of persons providing general dental services by reason only of his interest as a person providing general dental services if his interest cannot reasonably be regarded as an interest more substantial than that of others providing such services.

(7) The proceedings of the Board shall not be invalidated by any vacancy in the membership of the Board or by any defect in the appointment or qualification of any member thereof.

### **Voting**

**13.** Every question at a meeting of the Board shall be determined by a majority of the votes of the members present and voting on the question, and in the case of an equal division of votes the chairman shall have a second or casting vote.

### **Minutes of the proceedings of the Board**

**14.** Minutes of the proceedings at every meeting of the Board and a record of the attendance of members of such meeting shall be kept.

### **Reports**

**15.—(1)** The Board shall submit to the Secretary of State in each year a report of the Board's proceedings since the end of the period to which the last report submitted by the Board related.

(2) The Board shall furnish the Secretary of State with such information relating to the exercise of its functions as the Secretary of State may require.

### **Transitional provisions**

16. Where before the coming into force of these Regulations a person was appointed a member then, subject to regulations 8 and 9, he shall continue to be a member until the expiry of the period for which he was appointed.

### **Arrangements for general dental services**

17. The provisions of these Regulations shall be treated as included in the provisions as to the arrangement to be made under section 25 of the Act which are made by the National Health Service (General Dental Services) (Scotland) Regulations 1996.

### **Revocations**

18. The Regulations specified in column (1) of the Schedule are hereby revoked to the extent specified in column (3) of that Schedule.

St Andrew's House, Edinburgh  
27th January 1997

*James Douglas-Hamilton*  
Minister of State, Scottish Office

## SCHEDULE

Regulation 16

(1) <i>Regulations revoked</i>	(2) <i>References</i>	(3) <i>Extent of revocation</i>
The National Health Service General Dental Services) (Scotland) Regulations 1974	S.I. <a href="#">1974/505</a>	Regulations 9 to 18 inclusive
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 1974	S.I. <a href="#">1974/2048</a>	Regulation 2(a)
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 1985	S.I. <a href="#">1985/1552</a>	Regulation 2(2)
The National Health Service (General Dental Services) (Miscellaneous Amendments) (Scotland) Regulations 1990	S.I. <a href="#">1990/1772</a>	Regulations 6, 7 and 9
The National Health Service (Dental Services) (Miscellaneous Amendments) (Scotland) Regulations 1993	S.I. <a href="#">1993/523</a>	Regulations 2 and 3

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations supersede Part III of the National Health Service (General Dental Services) (Scotland) Regulations 1974 (the remainder of which have been superseded by the National Health Service (General Dental Services) (Scotland) Regulations 1996 (S.I. [1996/177](#))).

The Regulations make provision for the continued existence of the Scottish Dental Practice Board (“the Board”). In addition the Regulations provide for the appointment of members (regulation 5); for the appointment of a deputy chairman to act if the chairman is unable to act (regulation 6); for the tenure of office of members (regulation 7); for the termination of tenure of office of members (regulation 8); for the re-appointment of members (regulation 9); for the functions of the Board (regulation 10); for the chairman to preside over every meeting if present (regulation 11); for rules as to meetings and for the disability of members on account of their pecuniary interest (regulation 12); for voting at meetings and minutes of proceedings to be kept (regulations 14 and 15); and for the Board to provide an annual report, and information relating to the exercise of its functions, to the Secretary of State (regulation 15).